

Exhibit A

In The Matter Of:

Golden Bethune-Hill, et al. v.

Virginia State Board of Elections, et al.

Delegate Roslyn C. Tyler

May 19, 2015



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Min-U-Script® with Word Index

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

GOLDEN BETHUNE-HILL,
et al.,)
Plaintiffs,)
v.) Civil Action No.
VIRGINIA STATE BOARD) 3:14-cv-852-REP-GBL-BMK
OF ELECTIONS, et al.,)
Defendants,)
AND)
VIRGINIA HOUSE OF)
DELEGATES, et al.,)
Intervenor-Defendants.)

DEPOSITION UPON ORAL EXAMINATION OF

DELEGATE ROSLYN C. TYLER

TAKEN ON BEHALF OF THE PLAINTIFFS

RICHMOND, VIRGINIA

MAY 19, 2015

Reported by: Kimberly A. Watrous, RPR

Delegate Roslyn C. Tyler

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1 number of black minority votes in that area.

2 Q Let's focus on that for a minute.

3 A Okay.

4 Q So I will represent to you that in certain
5 context the VRA prohibits retrogression. So let me
6 ask you what you think retrogression means.

7 A Decreasing the number of voters.

8 Q Okay. So, for example, if the BVAP of a
9 district is 56 percent, and you take it down to
10 55 percent, you think that's retrogression?

11 A Right.

12 Q So another way to put that would be any
13 reduction in minority voting age population equals
14 retrogression?

15 A Okay. I got you.

16 Q Just to be clear, I'm asking you for your
17 view there.

18 A Okay.

19 Q I'm not representing that that's the
20 complete answer. But that's what I'm getting at.

21 Now, Delegate Tyler, during the 2010
22 redistricting cycle, did anyone ever tell you that
23 there's a predetermined fixed BVAP level that all
24 the majority-minority districts had to have?

25 A No. I've heard the percentage 55 percent

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1 tossed around. But then Chris Jones, with his
2 conversations, he always talked about plus and
3 minus. I forgot whether it was 5 or 1 percent. But
4 that plus-5 or plus-or-minus-1 deviation, that's
5 what I've heard most of the time during the process.

6 Q So when you say plus-or-minus-1 deviation,
7 that sounds like you're talking about population
8 equality?

9 A Yes. That's what I heard most of the time
10 during the process.

11 Q Thanks. Then you also said you also heard
12 the number 55 percent with respect to BVAP?

13 A I heard 55 percent. I don't know if it
14 was related to BVAP or not. I heard that
15 percentage.

16 Q Who did you hear that 55 percent from?

17 A Just overall, because there was some
18 discussion and in caucus and stuff, and they was
19 talking about a 55 percent. But when it came to
20 drawing the lines, they was more deviation stuff
21 than anything else.

22 Q Oh, I see. You're saying that you thought
23 that there was more discussion about the --

24 A Deviation population.

25 Q -- deviation than the 55 percent BVAP?

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1 A Yeah.

2 Q Okay. Well, you said you just heard about
3 the 55 percent threshold from many people. Do you
4 remember specifically talking about it?

5 A Well, when you're talking to Lionell or
6 someone, they would say maybe 55 percent. But when
7 you talk to Chris Jones, he talked about the
8 population deviation.

9 Q So Chris Jones never said anything to you
10 about a 55 percent BVAP threshold?

11 A No.

12 Q Did Lionell Spruill say something to you
13 about that?

14 A Lionell talked about it in discussion
15 about 55 percent. But what that meant, I don't know
16 what it meant. But my conversation was more the
17 percentage deviation, plus and minus of 5 or
18 whatever it was.

19 Q So when Delegate Spruill talked to you
20 about this 55 percent figure, you're saying you
21 didn't understand what he was talking about?

22 A Not as far as population. He just kept
23 talking about 55 percent.

24 Q Uh-huh. And what did you think he meant
25 by 55 percent?

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1 A Well, Democratic performance.

2 Q You thought Delegate Spruill was talking

3 about --

4 A More Democratic performance. More so than

5 black minority voters.

6 Q So just to be clear, when you talked to

7 Delegate Spruill about this 55 percent figure, did

8 he explain to you that it was a criteria or a

9 requirement to apply to all the majority-minority

10 districts?

11 A No.

12 Q Okay. So how did he characterize the

13 figure to you?

14 A Well, he would just talk about the number

15 of districts as far as Democrats.

16 Q Okay. So just to make sure I have this

17 straight, and tell me if this is correct. You

18 talked to Lionell Spruill on some occasions?

19 A Uh-huh.

20 Q The 55 percent figure came up?

21 A Uh-huh.

22 Q And you thought that he was talking about

23 Democratic performance of majority-minority

24 districts?

25 A Yes. Democratic performance.

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1 Q So you never understood the 55 percent to
2 refer to minority voting strength?

3 A No.

4 Q Did you discuss this with Delegate Dance?

5 A No.

6 Q Never had any conversations about the
7 55 percent with Delegate Dance?

8 A No.

9 Q How about Delegate McClellan?

10 A No.

11 MR. SPEAR: All right. I'm now handing
12 the court reporter a document that she will
13 mark as Exhibit 8.

14 (Tyler Exhibit 8 marked for
15 identification.)

16 BY MR. SPEAR:

17 Q Do you have that exhibit in front of you
18 now, Delegate Tyler?

19 A I do.

20 Q So as you can see, this is a transcript of
21 a Privileges and Elections Redistricting Public
22 Hearing dated April 4, 2011.

23 Have you seen this document before?

24 A No.

25 Q Do you remember this hearing?

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1 voting than actually are voting because of the
2 population, including the prison population.

3 Q Uh-huh. But you're not talking about
4 55 percent Democratic performance here, are you?

5 A Democratic -- well, 55 percent voter
6 population.

7 Q Right. Just to make sure I understand.
8 55 percent black voting age population is what that
9 figure refers to here, correct?

10 A Yes.

11 Q Now, why were you referring to the
12 55 percent black voting age population? Why were
13 you referring to that specific figure right there?

14 A Probably because still with prior
15 conversation they said you had to have 55 percent
16 Democratic population votes.

17 Q So again -- and I don't want to put words
18 in your mouth. Tell me if I'm wrong. Are you
19 saying that, in your mind, black voting age
20 population is the same as Democratic performance?
21 In other words, there's a one-to-one correspondence?

22 A What I'm saying is most of the time blacks
23 vote Democratic. So 55 percent of the population.
24 And that's what I said here. Draws minority
25 population with 55 percent.

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1 Q Right. So just to be clear. Sorry to
2 interrupt you. Just to be clear, what you're
3 referring to here, though, is 55 percent black
4 voting age population?

5 A Yes.

6 Q You don't say 55 percent Democratic
7 votes --

8 A 55 percent population, correct.

9 Q -- correct?

10 So does that refresh your memory that
11 maybe you did talk to folks about a 55 percent black
12 voting age population --

13 A Correct.

14 Q -- threshold?

15 A Yes.

16 Q Now that does refresh your memory?

17 A Yes. But 55 percent voter population,
18 yes.

19 Q Right. But in your mind, the purpose of
20 ensuring 55 percent BVAP was to help Democrats be
21 elected?

22 A Democratic performance, yes. That's
23 correct.

24 MR. SPEAR: I am handing to the court
25 reporter an exhibit, which she will mark as

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1 Exhibit 9.

2 (Tyler Exhibit 9 marked for
3 identification.)

4 BY MR. SPEAR:

5 Q Do you have that exhibit in front of you,
6 Delegate Tyler?

7 A I do.

8 Q This is an email string produced by the
9 House. What I would like for you to do is look at
10 the very bottom of the first page. You see where it
11 says from Chris Jones?

12 A Uh-huh.

13 Q You have to say "yes."

14 A Oh. Yes. I'm sorry.

15 Q That's okay.

16 Do you see where it says date April 7,
17 2011?

18 A Yes.

19 Q Okay. Turn over to the next page, very
20 top of the next page. Do you see where it says to
21 G. Paul Nardo?

22 A Yes.

23 Q Under subject, it says "F/up"?

24 A Uh-huh.

25 Q Do you understand that "F/up" means follow

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1 up?

2 A Okay.

3 Q Let me just say that that's what I think

4 it means.

5 A Okay.

6 Q And you're not disagreeing with that?

7 A All right.

8 Q Do you know who G. Paul Nardo is?

9 A Yes.

10 Q So I'm going to read the first paragraph

11 to you here. This is from Chris Jones to G. Paul

12 Nardo.

13 It says: GP, I followed up with Jennifer

14 McClellan this afternoon, and she reconfirmed that

15 the request of Kirk Showalter, Richmond Register,

16 exceeded the 55 percent threshold when they did on

17 the second floor for all affected districts and that

18 she would have never requested it if it didn't. I'm

19 not sure what got lost in translation, but the good

20 news is it is fixed now, and Jennifer will explain

21 the Senate amendment on floor Monday if needed.

22 Did I read that correctly?

23 A Correct.

24 Q So when Delegate Jones is referring to the

25 55 percent threshold here --

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1 A Yes.

2 Q -- do you agree that he's referring to
3 that 55 percent BVAP threshold that we just
4 discussed?

5 A Yes.

6 Q So is it fair to read that message as
7 meaning that Delegate Jones thought there was a,
8 quote, 55 percent threshold for BVAP in the
9 majority-minority districts?

10 A Yes.

11 Q You do agree with that?

12 A Uh-huh.

13 Q And is that consistent with your
14 understanding during the redistricting process and
15 what you heard during the process?

16 A Yes.

17 MR. SPEAR: Why don't we take a break
18 here, folks. We've been going for a while.

19 (Discussion held off the record.)

20 (Break from 2:45 to 2:58 p.m.)

21 EXAMINATION (continued)

22 BY MR. SPEAR:

23 Q We are back on the record. Thanks again
24 for being with us here today.

25 I just want to review quickly where we

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1 were when we went off the record.

2 You recall that we looked at your comments
3 at the April 4, 2011, public hearing. And you
4 explained that you were talking about a 55 percent
5 BVAP floor. And then we looked at this message,
6 this email message from Chris Jones to Paul Nardo,
7 and you saw that Chris Jones uses the phrase
8 "55 percent threshold"?

9 A Uh-huh.

10 Q Do you agree with that?

11 A I agree.

12 Q And that he is talking about a 55 percent
13 threshold for black voting age population, or BVAP,
14 in the majority-minority districts, correct?

15 A Correct.

16 Q At the end I asked you if that was
17 consistent with your understanding that there was a
18 predetermined 55 percent threshold for BVAP in all
19 of the majority-minority districts; is that correct?

20 A I don't know whether it was 55 percent for
21 all minority districts, but 55 percent is what I
22 heard.

23 Q 55 percent is the figure you heard. Let
24 me make sure I understand the distinction you're
25 drawing there. Are you saying --

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1 Q Okay. Is it fair to say, though, that you
2 heard it so much that it seemed to be a matter of
3 common knowledge, at least amongst people who
4 represented the majority-minority districts?

5 A Probably so. I guess it's correct to say
6 that. It was common knowledge.

7 Q So if you walked up to another delegate
8 and said, I don't know about this 55 percent thing,
9 they would probably know what you were talking
10 about?

11 A They probably would, yeah.

12 Q Okay.

13 MR. SPEAR: Now I am handing the court
14 reporter another transcript she will mark as
15 Exhibit 10.

16 (Tyler Exhibit 10 marked for
17 identification.)

18 BY MR. SPEAR:

19 Q All right, Delegate Tyler, do you have
20 Exhibit 10 in front of you?

21 A I do.

22 Q All right. As you can see from the front
23 of the document, this is a Virginia House of
24 Delegates Redistricting Public Hearing dated April
25 2, 2011, and chaired by Delegate Chris Jones.

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1 Do you see where it says that?

2 A Uh-huh.

3 Q Do you remember this hearing?

4 A No.

5 Q Do you know if you attended this hearing?

6 A No, I don't.

7 Q Please turn to page 25.

8 Are you there?

9 A Uh-huh.

10 Q I would like to ask you to read from line
11 16 on page 25 all the way through to the first
12 paragraph of page 27. Just to be clear, you don't
13 have to read it out loud. Just read it to yourself,
14 and let me know when you're finished.

15 A Okay.

16 Q Thank you. I would like to direct your
17 attention to page 26, line 21, and this is Delegate
18 Dance speaking as we just discussed. Again, you
19 understand Delegate Dance is former Delegate Dance?

20 A Yes.

21 Q She's now Senator Dance?

22 A Correct.

23 Q Delegate Dance says: I can tell you that,
24 if we don't -- whatever redistricting plan comes
25 out, if we don't have at least a 55 percent variance

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1 as far as minorities, then we don't really stand
2 much of a chance to be able to live up to what the
3 Department of Justice says we have a right to have.
4 And that also impacts the whole state of Virginia as
5 far as how things have to be shifted.

6 Did I read that correctly?

7 A Correct.

8 Q So do you agree that here Senator Dance is
9 saying that all majority-minority districts had to
10 have at least 55 percent BVAP?

11 A Correct.

12 Q And is that consistent with your
13 understanding that there was a predetermined
14 55 percent BVAP level at least for some districts?

15 A Right.

16 Q And I think you testified earlier that
17 Delegate Jones spoke frequently with Senator Dance
18 about the redistricting process, correct?

19 A Uh-huh.

20 Q So do you think it's likely that she
21 discussed this 55 percent predetermined threshold
22 with Delegate Jones?

23 A Yes. I don't know for sure, but from
24 reading this.

25 Q Okay. Do you think it's a fair reading of

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1 this passage to say that Delegate Dance thinks that
2 the reason the 55 percent threshold is important is
3 because it ensures compliance with the VRA?

4 A Yes.

5 Q Do you know if Senator Dance was a member
6 of the Privileges and Elections Committee?

7 A Yes, she was.

8 Q I want to go back and take a look at
9 Exhibit 7 again. This is the transcript of the
10 April 5, 2011, debate.

11 That's the one. Remember there's four
12 pages per page on this one.

13 A Okay.

14 Q Do me a favor and turn to page 66.

15 Are you there?

16 A Uh-huh.

17 Q Do you see on page 66, line 7, where it
18 says "Del. Jones"?

19 A Uh-huh.

20 Q I'll represent to you that this is
21 Delegate Jones talking about the HB 5001 bill.

22 A Okay.

23 Q I'm going to read to you again.

24 Q Delegate Jones says: Mr. Speaker, I'd
25 said to the gentleman of the plans that have been

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1 submitted and/pr circulated around that were
2 complete and total plans, the plan that is before
3 you, in my opinion, fully complies with the Voting
4 Rights Act as 55 percent or higher, which is
5 testimony that we heard during the public hearings
6 of percentage voting age population.

7 Do you see that?

8 A Yes.

9 Q Did I read that correctly?

10 A Correct.

11 Q So do you agree that Delegate Jones is
12 saying that the Voting Rights Act requires
13 55 percent or higher, quote, percentage voting age
14 population?

15 A Yes.

16 Q Is that consistent with your understanding
17 that, in drawing the new map, Delegate Jones adopted
18 a policy under which all the majority-minority
19 districts had to have at least 55 percent BVAP?

20 A Yes.

21 Q And he did that it seems because he
22 thought the Voting Rights Act required it, correct?

23 A Correct.

24 Q Flip to page 70, please.

25 So Delegate Jones is still answering

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1 questions about the map.

2 Take a look at line 5 on page 70. He's
3 talking here about alternative maps I believe that
4 had been proposed by university students. That's
5 not important but just for context.

6 He says, quote: I have looked at the 12
7 and the 13th plan, Option 1 and Option 2, and
8 neither one of those plans met what I think from the
9 testimony that we heard throughout this process that
10 the effective voting age population needed to be
11 north of 55 percent. Each of those plans had a low
12 of I think 52, 52 percent.

13 Did I read that correctly?

14 A Correct.

15 Q So again, does it seem to you that
16 Delegate Jones is saying that, under the VRA, each
17 majority-minority districts had to have a, quote,
18 effective voting age population north of 55 percent?

19 A Yes.

20 Q I'm going to ask the question again in a
21 much simpler form to make sure the record is clear.

22 A Okay.

23 Q So from this passage, you would understand
24 Delegate Jones to believe that each of the
25 majority-minority districts had to have at least

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1 55 percent BVAP to comply with the VRA?

2 A But when he says here the effective voter

3 age population needs to be north of 55 percent --

4 Q Uh-huh.

5 A -- what does he mean by north of

6 55 percent? Meaning 55 percent and above?

7 Q That's how I would read it. How would you

8 read it?

9 A Well, I don't know whether he meant north

10 of 55 percent or above 55 percent or more, or are he

11 talking about delegates in the northern area needing

12 55 percent?

13 Q Do you think that's what he meant, that

14 delegates in the northern area needed more than

15 55 percent?

16 A I'm assuming, because each of these plans

17 a low of I think 52, 52 percent.

18 Q Well, let me just focus your attention on

19 the language that I read where he says: We heard

20 throughout this process that the effective voting

21 age population needed to be north of 55 percent.

22 So do you think when he says north of

23 55 percent he's talking about effective voting age

24 population?

25 A Well, I don't know whether he's talking

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1 about 55 percent population, or is he talking about
2 delegates in the northern area that needs 55 percent
3 population. I'm not sure.

4 Q Okay. Did you ever hear Chris Jones or
5 anyone else say that the 55 percent threshold only
6 applied to delegates in the northern part of the
7 state?

8 A No.

9 Q I'm sorry. Did you say "no"?

10 A No.

11 Q So just to tie this one off, from the
12 documents we've looked at, do you think it's pretty
13 fair to say that there was, at least in Delegate
14 Jones' mind, a requirement that all the
15 majority-minority districts had to have at least
16 55 percent BVAP?

17 A Yes.

18 Q Again, is that consistent with your
19 recollection that you have of conversations with
20 people during the cycle?

21 A Yes.

22 Q And was it your understanding that this
23 55 percent minimum or quota was also applied to the
24 drawing of your district? In other words, did
25 Delegate Jones try to make sure that you had at

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1 MR. SPEAR: I'm handing the court reporter
2 another transcript, which she will mark as
3 Exhibit 11.

4 (Tyler Exhibit 11 marked for
5 identification.)

6 BY MR. SPEAR:

7 Q Do you have that exhibit in front of you,
8 Delegate Tyler?

9 A Yes.

10 Q So as you can see from the cover, this is
11 another transcript of a Privileges and Elections
12 Redistricting Senate Hearing dated April 4, 2011.
13 My understanding is that this was produced by the
14 House as well.

15 Have you seen this before?

16 A Not that I can recall.

17 Q Do you recall whether you attended this
18 hearing?

19 A I don't remember.

20 Q If you would flip to page 15. I'm going
21 to read to you starting on line 4. Delegate Chris
22 Jones speaking.

23 Delegate Jones: Nottoway was split. And
24 so at the meeting with Delegate Tyler and Delegate
25 Wright, they felt they needed to leave it how it

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1 currently exists. And so we made Nottoway whole,
2 and then we went in and took the existing two
3 precincts that are within Lunenburg, I think it was
4 Hounds Creek and Rosebud, and were able to
5 effectuate that change. And then on the eastern
6 border I believe Delegate Dance made a couple of
7 trades of precincts in the Sussex and Southampton
8 areas, between the 64th and the 75th.

9 Did I read that correctly?

10 A Correct.

11 Q Do you see where there's a reference to a
12 meeting with Delegate Jones, yourself, and Delegate
13 Wright on lines 4 through 5?

14 A There wasn't no meeting.

15 Q I'm sorry?

16 A There wasn't a meeting.

17 Q There wasn't a meeting between you and
18 Delegate Wright and Delegate Jones?

19 A No.

20 Q Was it more of a conversation?

21 A Conversation or something --

22 Q Okay.

23 A -- by them saying they met with Tommy, and
24 Tommy said it was fine to put those particular
25 areas. But it wasn't no meeting.

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1 pronouncing that correctly?

2 A That's right. I don't have that district.

3 That's Delegate Wright's.

4 Q What is Nottoway, a precinct?

5 A Uh-uh. It's a county.

6 Q So when Delegate Jones says "we made

7 Nottoway whole," what does he mean?

8 A He didn't split the county.

9 Q It remains one person's district?

10 A That's right.

11 Q And who -- which district is that?

12 A Delegate Wright's. And then I took in the
13 existing precincts that were within Lunenburg and
14 Hounds Creek and Rosebud. Part of those are in my
15 district.

16 Q And those ended up in your district in the
17 final map; is that correct?

18 A That's correct. (So he was trying not to
19 split the counties. But it wasn't no meeting. It
20 was just a discussion of areas that he was trying
21 not to split counties --

22 Q I understand.

23 A -- and just trying to keep them whole.

24 Q Okay. Fair enough.

25 And then on lines 10 through 13, Delegate

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1 Jones mentions that there's a couple -- he says,

2 quote: A couple of trades of precincts in the

3 Sussex and Southampton areas between the 64th and

4 the 75th.

5 Did I read that correctly?

6 A Yes.

7 Q And the 75th is your district, correct?

8 A 75th is my district.

9 Q So what was the purpose of those trades of

10 precincts?

11 A It was just the way that it was trying to

12 make the line I guess a little bit more congruent

13 with the 64th district, because I split Southampton

14 and Sussex with another delegate.

15 Q Uh-huh. So were these trades intended to

16 increase the number of African-Americans in your

17 district?

18 A I think it was done to not split precincts

19 in the area.

20 Q Okay. So you don't think it had anything

21 to do with voting age population?

22 A No.

23 Q Or the population of African-Americans in

24 your district?

25 A No.